

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

RANDALL S. KRAUSE,

Plaintiff,

v.

CITY OF OMAHA,

Defendant.

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Case No. 8:14cv94

ANSWER

COMES NOW the Defendant City of Omaha and for its Answer to the Plaintiff's First Amended Complaint states and alleges as follows:

1. Admits Paragraphs 3, 5, 6, 9, 10, 20, 21, 22, and 28.
2. Admits that the quantities stated in Paragraphs 11 through 17 and 23 are approximately correct, varying depending on which season a particular purchase is credited to.
3. Denies the remaining allegations contained in the Complaint, except those allegations which constitute admissions against the Plaintiff's interest.
4. Affirmatively alleges:
 - a. The Defendant's road treatment practices are consistent with the generally accepted practices of public entities and private entities across the nation, and are accepted by the governmental agencies charged with enforcing the environmental laws at issue, including the Nebraska Department of Environmental Quality and the Environmental Protection Agency.
 - b. The first amended complaint raises no justiciable case, and impermissibly seeks an advisory opinion.
 - c. There is a lack of subject matter jurisdiction.

d. The first amended complaint fails to state a claim upon which relief can be granted.

e. Plaintiff has failed to give the Defendant any prior notice of endangerment, thus barring this action.

WHEREFORE, the Defendant prays that the Plaintiff's First Amended Complaint be dismissed with prejudice, at Plaintiff's costs.

CITY OF OMAHA, Defendant,

By: /s/ Alan M. Thelen

ALAN M. THELEN, #17811

Deputy City Attorney

1819 Farnam St., Suite 804

Omaha, NE 68183

(402) 444-5135

Attorney for Defendant

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing **ANSWER** has been sent by the undersigned, via U.S. mail, postage prepaid, on this 23rd day of May, 2014, to Randall S. Krause, 604 S. 22nd St., Apt. 515, Omaha, NE 68102.

/s/ Alan M. Thelen